

June 6, 2007

Greg Smolley
Jeter, Cook & Jepson Architects
38 Prospect Street
Hartford, CT 06103

Re: Tiverton Zoning Board Relief; Map 6-2, Block/Plat 89, Card/Lot 9

Dear Mr. Smolley:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on June 6, 2007 for a request for a special use permit to construct pursuant to Article IV, Section 4 of the Tiverton Zoning Ordinance ("Zoning Ordinance") to renovate an existing public elementary school building (the "Use") located at 99 Lawton Avenue, Tiverton, Rhode Island at Map 6-2, Block/Plat 89, Card/Lot 9 (the "Premises") and for a variance from Article V, Section 1 and Article X, Section 1 of the Zoning Ordinance to allow the Use to be established with less than required parking spaces and closer to the rear yard than is currently required in an R40 zone.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and after taking into consideration all of the testimony at the public hearing, makes the following findings:

1. That the Premises contains approximately 288,977 square feet of land area, more or less, zoned R40 residential.
2. That the existing use of the Premises is for a public elementary school and that the proposed renovation requires the issuance of a special use permit pursuant to Article IV, Section 4 and dimensional variance relief from the Board, pursuant to Article X, Section 1 and Article V, Section 1 of the Zoning Ordinance.
3. That the petitioner desires to improve the Use of the Premises by upgrading the existing school to comply with current building code and educational standards with less than required parking and setback from the rear property line.
4. That the petitioner testified that the proposed renovations are necessary to properly accommodate the existing public elementary school population of the Town.

5. That the applicant testified that the Use would be in keeping with the development in the surrounding area and would not negatively impact any nearby property owners.
6. That several neighbors expressed concerns regarding the Use, but that such expressed concerns had been adequately addressed by the petitioner during the presentation of the proposal at the public hearing.
7. That the Board concurred with the factual statements and opinions of the petitioner, whose information, analysis and conclusions were found credible and are made a part of the record.

As to the special use permit, the Board made a motion to approve the sought after relief. After deliberations, the Board voted unanimously to grant the petitioner's application for a special use permit, as follows:

- (1) The public convenience and welfare will be served by allowing the establishment of the Use on the Premises.
- (2) The proposed Use will not be detrimental to the public health, safety, morals or welfare.
- (3) The proposed Use will be compatible with neighboring uses and will not adversely affect the general character of the area.
- (4) The proposed Use will not create a nuisance in the neighborhood, and will not hinder or endanger vehicular or pedestrian movement.
- (5) The requested Use is compatible with the comprehensive community plan of the Town of Tiverton.

Based on the foregoing, the Board made a motion to approve the dimensional variance relief sought by the applicant. After deliberations, the Board voted unanimously to grant the petitioner's application for zoning relief, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioner.
- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioner.
- c. The unnecessary hardship, which the petitioner seeks to avoid, has not been imposed by any prior action of the petitioner and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.

- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

This petition is granted by the Board with the following stipulations and conditions:

- 1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
- 2. That the relief is limited to the plans and representations made by the petitioner to the Board and that any changes to the approved plan shall not be made without approval of the Zoning Board of Review.
- 3. That this grant shall be activated with a building permit/certificate of occupancy, within one (1) year, unless extended by the Board, or it shall become void.

Present this letter to the Building Inspector when applying for the necessary permits.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review

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Book 1146 pages 18,19